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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/819).

The Counter-Terrorism Committee has received the attached supplementary report from Argentina submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Letter dated 30 August 2002 from the Permanent Representative of Argentina to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit herewith the report supplementary to the report submitted to the Committee on 27 December 2001 (S/2001/1340), in order to provide additional information (see annex) on the measures taken by the Argentine Republic pursuant to Security Council resolution 1373 (2001), as requested by the Committee in its letter dated 22 July 2002 (S/2002/819).

I should be grateful if you could arrange for this letter and the enclosed report to be circulated as a document of the Security Council.

(*Signed*) Arnoldo M. **Listre**
Ambassador
Permanent Representative

Enclosure

Supplementary report of the Argentine Republic on the implementation of Security Council resolution 1373 (2001)*

Subparagraph 1 (a)

(a) Decides that all States shall prevent and suppress the financing of terrorist acts;

Could Argentina please indicate how it proposes to implement the United Nations Convention for the Suppression of the Financing of Terrorism?

On 30 April 2002, the Executive sent the bill endorsing the Convention to Congress. The bill has been approved by the Senate and is currently being considered by the Chamber of Deputies. Once Congress finalizes its procedures, the Executive will ratify the Treaty.

As indicated in the report of the Argentine Republic on how the provisions of subparagraph 1 (b) of Security Council resolution 1373 (2001) are being implemented, the then Ministry of Justice and Human Rights has set up, through resolution 189/2002 dated 4 April 2002, an inter-ministerial committee composed of distinguished experts for the purpose of analysing and assessing the extent to which Argentine criminal law is in line with international conventions concerning terrorism and preparing such draft legislation as may be necessary. Although the Convention is not in force for Argentina, the committee may recommend the provisions required to characterize terrorist financing as an offence under domestic law and take other measures to implement the Convention as well as the provisions of resolution 1373 (2001).

Please provide the Committee with the outcome of the inter-ministerial committee's evaluation of the Argentine criminal law with reference to the requirements of the international conventions and protocols on terrorism.

The above-mentioned committee, which began its work on 29 April 2002, has 180 days within which to prepare its proposals. It has concluded on a preliminary basis that a large majority of the acts described by the international conventions on terrorism, to which Argentina is a party, have been characterized as offences. The committee is currently considering enacting specific additional legislation relating to terrorism and incriminating conduct related to the financing of terrorism.

Please explain how effect is given in the provinces to the federal laws relating to terrorism.

As explained in the report on the implementation of subparagraph 1 (b) of resolution 1373 (2001) (S/2001/1340), Argentine law does not characterize terrorism or terrorist acts as a separate offence and says nothing about terrorism being a component of any criminal offence or an aggravating circumstance. Under the Constitution, ordinary criminal or federal courts shall be responsible for the investigation, suppression and punishment of offences involving acts of terrorism as provided for under our federal republican system of representative government

* The annexes are on file with the Secretariat and are available for consultation.

where local (provinces and the autonomous city of Buenos Aires) and federal jurisdictions exist side by side.

Under the Argentine constitutional system, local governments retain all the powers not delegated to the Federal Government (article 121 of the Constitution) including, inter alia, the power to organize their own system of justice and to enact codes of procedure (article 5 of the Constitution), including codes of criminal procedure.

The Federal Government may, among other things, enact substantive codes such as the Penal Code in force throughout Argentina, whose application by the federal or provincial courts will depend on whether the matters or persons concerned fall within their respective jurisdictions (article 75, paragraph 12, of the Constitution).

The Constitution sets out the structure and competence of the federal system of justice, assigning to the Supreme Court and to the lower courts (federal courts) the power to hear and rule on all cases having to do with matters governed by the Constitution and by national laws, except for the application of the laws referred to in article 75, paragraph 12 (as explained in the above paragraph); and by treaties with foreign States, cases concerning ambassadors, ministers of the Government and foreign consular officials, cases involving the admiralty and maritime jurisdiction, matters to which the nation is a party, cases involving disputes arising between two or more provinces, between one province and the inhabitants of the other, between the inhabitants of different provinces, between a province or its inhabitants against a State or foreign national (article 116 of the Constitution). In particular, the Supreme Court shall have primary and exclusive jurisdiction over all cases involving ambassadors, ministers and foreign consular officials and to which provinces may be party (article 117 of the Constitution).

There is also a legislative practice according to which the very criminals themselves expressly provide for federal jurisdiction to apply. Examples of such legislation are Act No. 13,985 (crime against State security), Act No. 20,840 (national security) or Act No. 23,767 (narcotics).

In short, while under Argentine law any crime involving acts of terrorism necessarily violates national criminal law, its prosecution falls within the competence of the federal justice system or local justice system, in accordance with the above-mentioned constitutional provisions.

In order to regulate some matters which fall under both federal and provincial jurisdiction, Argentine constitutional practice developed a mechanism known as a framework-law. It is a national law enacted by Congress but which is applicable only in those provinces that expressly decide to accede to it. Act No. 24,059 on domestic security is an example of that law.

Please also explain how coordination is achieved between the federal agencies dealing with anti-terrorism and the agencies of the provinces on the one hand and amongst the agencies o f the provinces on the other.

From an operational standpoint, there is no specific legislation that deals with the phenomenon of terrorism in terms of State security policy or police activities. Coordination between federal and provincial agencies and the latter among

themselves is achieved through the State's overall security policy, which includes terrorism as provided for in the relevant legislation in force.

Domestic Security Act No. 24,059 defines domestic security as "... the protection of the freedom, lives, property, rights and guarantees of the people, and the safeguarding of the institutions of the representative, republican and federal system enshrined in the Constitution (article 2).

Also, under the Act, the Domestic Security Council may advise the Minister of Justice, Security and Human Rights, who is responsible for the domestic system of security, in the formulation of policies relating to the prevention and scientific investigation of the types of crime that have the most serious quantitative or qualitative impact on the community ... (article 10 (b)).

These two legal notions clearly empower the competent authorities to provide for and implement counter-terrorist measures and actions on the territory and in the territorial waters and air space of the Argentine Republic. Thus federal and provincial agencies responsible for internal security coordinate their activities within the framework of this domestic system of security provided for by that Act, which has been in force since January 1992.

In accordance with article 3 of the Domestic Security Act, it is the national police and security forces that are responsible for the protection function referred to in article 2. While that function is in principle restricted to federal jurisdiction it may, at the request of relevant authorities, be extended to the provinces as provided for by that Act.

The status of a framework law for that norm is the element that determines the special features of the Argentine federal system and allows for planning and coordinated action, where necessary, between national and provincial governments. It is consistent with the provisions of article 5 of the above-mentioned law that: "Domestic security, pursuant to the principles derived from the Constitution, is governed by current national and provincial laws on security and by the present law, which shall have the nature of a framework law with respect to coordinating action with those provinces that accede to such law". All the provinces and the autonomous city of Buenos Aires have become parties to Act No. 24,059.

Accordingly, as far as the prevention and repression of crime is concerned, there are, on the one hand, State agencies that are fully or partly responsible for counter-terrorism (including the national police and intelligence agencies) and the provincial police forces on the other hand.

Security operations under the system are conducted by the planning and monitoring centre whose mission, according to article 15 of the above-mentioned Act, shall be to "assist and advice the Ministry of the Interior (now the Ministry of Justice, Security and Human Rights) and the Crisis Committee in the management of the police and security forces for the purposes provided for by the present Act. It will be made up of senior officers from the Argentine Federal Police, the Gendarmería Nacional, the Argentine Coast Guard and provincial police and such civil servants as may be required.

As far as national intelligence is concerned, mention must be made of National Intelligence Act No. 25,520 enacted in late 2001, which provides for the National Intelligence System. Under article 13, paragraph 7 of that Act, the Intelligence

Secretariat may "request such cooperation as it deems necessary from the provincial governments in carrying out its activities".

Concurrently, pursuant to the provisions of article 8 of the regulations of the National Intelligence Act approved by Decree No. 950 of 5 June 2002, annex 1, "under the cooperation provided for by article 13, paragraph 7 of the Act, provincial governments shall make available to the Intelligence Secretariat any information they obtain that may lead to the discovery of any threats and conflicts likely to affect national security. Provincial information and intelligence agencies shall, through the National Criminal Intelligence Directorate of the Domestic Security Secretariat (read Ministry of Justice, Security and Human Rights) and pursuant to the provisions of article 16 of the Act No. 24,059, also make available to the Intelligence Secretariat any information they obtain that may lead to the discovery of threats and conflicts likely to affect the internal security of the State".

The foregoing statements in reference to national intelligence show how the national Government's greatest strengths in intelligence gathering lie with the provinces, particularly with reference to counter-terrorism efforts. The Domestic Security System and the National Intelligence System are the legal bodies responsible for carrying out the necessary coordination with respect to counter-terrorism activities at the national and provincial levels and at the level of the autonomous city of Buenos Aires.

Subparagraph 1 (b)

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

Please indicate whether natural and legal persons outside the main financial sector (example lawyers) are legally required to report suspicious transactions to the relevant public authorities . If so, what are the penalties for non-compliance?

Article 20 of Act No. 25,246 on concealment and laundering of the proceeds of criminal acts establishes that the natural and legal persons outside the financial system who are required to report to the Financial Intelligence Unit under article 21 of the Act are the following:

- Natural and legal persons who normally operate games of chance for a living;
- Natural and legal persons who buy and sell works of art, antiques or other luxury goods, deal in stamps or coins or are involved in the export, import, manufacture or industrialization of jewels or goods containing metals or precious stones;
- Notaries public;
- The entities listed in article 90 of Act No. 22,315 (companies involved in capitalization and savings operations);
- Natural and legal persons listed in the registers established by article 23, subparagraph (t) of the Customs Code (Act No. 22,145 and amendments thereto), namely, customs agents, customs forwarding agents, importers and exporters;

- Registered professionals, whose activities are regulated by professional economic boards, except when acting for the defence in a trial;
- All legal persons who receive donations or third-party contributions;
- Firms that transport funds.

In order to clarify this answer, the following natural and/or legal persons listed in article 20 of the Act shall be deemed to belong to the financial system in the widest sense:

- Financial entities subject to the provisions of Act No. 21,526 and amendments thereto and entities administrating retirement and pension funds;
- Entities subject to the provisions of Act No. 18,924 and amendments thereto and the natural and legal persons authorized by the central bank to purchase and sell foreign currency in the form of cash or cheques or through the use of credit or proprietary cards or to transfer funds within the country or abroad;
- Stock brokers or stockbroker companies, mutual fund investment management companies, open electronic market dealers and all those middlemen involved in the purchasing, leasing or lending of securities who operate under commodity exchanges with or without member markets;
- Agents registered with any futures and options exchanges;
- Travellers' cheque or credit or proprietary card issuers;
- Insurance companies;
- Insurance producers, assessors, intermediaries, and claims adjustors whose activities are governed by Act No. 20,091 and Act No. 22,400 amendments thereto, supporting and supplementary legislation.

The above-mentioned Act also covers :

- Public service agencies and decentralized and/or autonomous entities that exercise regulatory, monitoring, supervisory and/or oversight functions over economic activities and/or legal transactions and/or subjects of law, whether individual or collective: the Central Bank of Argentina, the Federal Administration of Public Income, the National Superintendency of Insurance, the National Securities Commission and the General Inspectorate of Justice;
- Trade registers, agencies responsible for the oversight and control of legal persons, immovable property registers , automobile registers and registers on liens.

Under article 20 *in fine*, persons who are required to report by law may not invoke the provisions relating to banking, tax or professional secrecy nor the confidentiality provisions established by law or by contract. On the other hand, by virtue of the right of defence enshrined in article 18 of the Constitution, defence lawyers are in principle excluded from the obligation under article 20.

The penalty for non-compliance is set out in article 24 of Act No. 25,246 which establishes :

> "1. That any person acting as an agent or implementer of a legal or physical person who fails to comply with any of the obligations to inform the

Financial Intelligence Unit established by this Act shall be punished by a fine of one to ten times the total value of the assets or transaction which are the object of the offence, provided that the act does not constitute a more serious offence.

2. A similar punishment shall be imposed on the legal person for whom the offender works.

3. A fine of 10,000 to 100,000 pesos shall be imposed where the actual value of the assets cannot be established."

It should also be noted, that pursuant to the organic law of the General Inspectorate of Justice — the body that exercises oversight over companies, civil associations and foundations — the inspectorate may request from those under its jurisdiction such information and documents as it deems necessary (article 6, paragraph A of Act No. 22,315).

Please provide a list of the predicate offences covered by Act No. 25,246.

Article 6 of Act No. 25,246 gives the Financial Intelligence Unit jurisdiction over the laundering of assets derived from criminal acts and lists the offences included in such jurisdiction:

"Article 6 — The Financial Intelligence Unit shall be responsible for the analysing, processing and transmitting of information for the purpose of preventing the laundering of assets derived from:

(a) Offences related to drug trafficking and sales (Act No. 23,737);

(b) Arms trafficking (Act No. 22,415);

(c) Offence of aggravated unlawful association in the terms of article 210 bis of the Penal Code;

(d) Unlawful acts committed by unlawful associations (article 210 of the Penal Code) established for the purpose of committing political or racial offences;

(e) Fraud against the Government (article 174, paragraph 5, of the Penal Code);

(f) Offences against the Government provided for under chapters VI, VII, IX and IX bis of Title XI of book two of the Penal Code;

(g) Offences of prostitution of minors and child pornography, provided for by articles 125, 125 bis, 127 bis and 128 of the Penal Code."

It should be noted that, under article 278 of the Penal Code, the offence of money-laundering is defined as any use of assets derived from an offence of a total value exceeding 50,000 pesos, either by a single act or by the repetition of various interrelated acts.

A detailed list of the offences covered by article 6 of Act No. 25,246 is annexed to this report.

Subparagraph 1 (c)

"(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acing on behalf of, or at the direction of, such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;"

Executive Decree 12315/01 of 5 October 2001 calls upon the provinces, other units and federal government departments to take action to implement the resolution. Please describe the measures taken by the various units mentioned in the decree.

In view of the urgent need to take further measures and aware of how far along in the process of adopting United Nations resolution 1373 (2001) the Argentine Republic was the National Coordination Directorate and Analysis for Crime Prevention of the Domestic Security Secretariat convened a special meeting of the chiefs of intelligence of the provincial police, the federal police forces (Argentine Federal Police, National Police Force and Argentine Coast Guard), the National Aeronautical Police and representatives of the Intelligence Directorate at the Domestic Security Secretariat, Buenos Aires, on 3 October 2001.

At that meeting, progress was made in coordinating intelligence within the framework of the provisions of Act No. 24,059, particularly as regards streamlining the exchange of information; jurisdictions were instructed to update both national and provincial objectives concerning protection against terrorist acts; and the conclusions reached by the Sixth Intelligence Commission, especially convoked within the framework of the Meeting of the Regional Council on Domestic Security in north-eastern Argentina, held in Puerto Iguazú, Province of Misiones, on 27 September 2001, with the participation of those departments responsible for the security of what is known as the "tri-border" area — were disseminated and jointly analysed.

Thus far, the National Coordination and Analysis Directorate for Crime Prevention, under Decree No. 1045/2001, has been responsible for ensuring compliance with the provisions of article 16 of Domestic Security Act No. 24,059 which refers to establishing "... the organ through which the Ministry of the Interior (now the Ministry of Justice, Security and Human Rights) shall direct and coordinate activities of the information and intelligence organs of the Argentine Federal Police, those of the National Police Force and the Argentine Coast Guard solely for the purposes of domestic security, and those at the provincial level under any agreements concluded ...".

The National Criminal Intelligence Directorate was created with the adoption of Act No. 25,520 on National Intelligence. It will become official once the structure of the new Ministry of Justice, Security and Human Rights of the Nation is established by decree and begins to carry out the functions set out in article 16 of Act No. 24,059.

Mention should also be made of progress in the implementation of the National Argentine Node (NONARG), which is directly accountable to the Planning and Control Centre of the Domestic Security Secretariat. In its initial phase, the function

of NONARG is to operate an informatics system for the exchange of security information among the security forces — National Police and Argentine Coast Guard — the Federal Police and the National Directorate of Immigration. In the next phase, to follow immediately, the provincial police forces and other national, provincial and/or municipal departments that can provide information of interest to the Node will be included. The Node also contains registers (of, inter alia, weapons, persons and vehicles). NONARG plays a key role in the Security Information Exchange System (SISME) for the Common Market of the Southern Cone (MERCOSUR), Bolivia and Chile as its administrative organ. In this capacity, it exchanges information with all members of MERCOSUR, directs requests to the databases of agencies with information and returns that information to the requesting country. The Domestic Security Secretariat is responsible for the administrative, functional, operational and legal aspects of all information transmitted through the Node to SISME member countries.

Please outline the legal provisions available to freeze funds, financial assets and other economic assets of persons and entities found to be supporting terrorism inside or outside Argentina and indicate whether they are binding on all the units of the federation.

As indicated in the "Report of the Argentine Republic on the implementation of United Nations Security Council resolution 1390 (2002)", United Nations Security Council resolutions imposing sanctions are implemented in the domestic legal order of the Argentine Republic through executive decrees. In the Argentine legal order, international treaties take precedence over national legislation (National Constitution, article 75, paragraph 22). Security Council resolutions adopted under Chapter VII of the Charter of the United Nations, as norms derived from an international document, are also given priority over national law. In any case, a presidential decree is necessary in order to publicize a resolution for purposes of its implementation by the competent federal departments, and to make it binding on the citizens under Argentine jurisdiction. The decree is part of federal law and, hence, is binding on all units of the federal State (National Constitution, article 31).

With regard to the above-mentioned resolution 1390 (2002), Decree No. 623/2002 on the freezing of funds and financial assets, in its article 3, provides that updating the list of persons and entities referred to in paragraph 2 of the said resolution shall be done by resolution of the Ministry of Foreign Affairs, International Trade and Worship. Ministerial Resolution No. 623/2002 of 18 April 2002 was adopted in accordance with that Decree, as already indicated at the time to the Committee established pursuant to resolution 1267 (1999). After that report was submitted, the Ministry of Foreign Affairs, International Trade and Worship adopted resolution 839/002 of 23 May 2002, which contains an additional list of entities and persons identified in accordance with resolution 1267 (1999), in implementation of resolution 1390 (2002). A copy of this ministerial resolution is attached to the report.

As indicated at the time (S/2001/1340, p.7), following the adoption of the decrees implementing Security Council decisions calling for the freezing of funds and financial assets and the corresponding ministerial resolutions publicizing the lists of persons and entities subject to the freeze, the Central Bank of the Argentine Republic issued Communication "B" 6986 of 26/9/01, Communication "B" 7017 of 18/10/01 and Communication "B" 7023 of 25/10/01. This was followed by

Communication "B" 7035 of 5/11/01, Communication "B" 7085 of 7/1/02, Communication "B" 7114 of 1/02/02, Communication "B" 7163 of 15/3/02 and Communication "B" 7176 of 25/3/02, of which copies are attached, respectively.

Under the applicable legal norms — Act No. 21,526 on financial entities and the Charter of the Central Bank of the Argentine Republic — Central Bank provisions are binding on private, public, semi-public or official national, provincial or municipal persons or entities ordinarily engaged in intermediation between the supply and demand of financial resources. Compliance with these norms is monitored through on-site inspections carried out by the Oversight Department of the Central Bank.

In addition, as already indicated, the National Securities Commission adopted General Resolutions CNV No. 375/01 and 377/01. It subsequently adopted General Resolution No. 390/02 of 17 January 2002, containing the current provisions on the matter, a copy of which is attached.

Is it possible to freeze funds, etc., on grounds of suspicion of terrorist links in the absence of a predicate offence relating to the funds?

The freezing of funds is, in essence, a precautionary or preventive measure which can be applied by the administration and controlled by a judicial organ or by the judiciary. In either case, the pre-existence of *res judicata* involving the possible breach of an inviolable right is always necessary. Thus, the administration could suspend the operations of a financial entity, which would involve freezing funds on deposit, whenever it is at risk of insolvency in order to protect investors. A judge can order an embargo or the general preventive inhibition of a debtor's assets at the request of a creditor in order to protect his debt-claim, and can also order similar measures against a criminal defendant in order to ensure his appearance in court or to secure the evidence or proceeds of the crime investigated or the compensation that must be paid in a criminal conviction. *Res judicata* is a prerequisite in all the above-mentioned cases.

In particular, if there are suspicious funds linked to terrorism, there must be evidence of that link with respect to a crime. In fact, all terrorist activities are connected with the commission of a crime, since terrorist organizational structures are, by their very nature, illegal. Thus, although there is no definition of terrorism in Argentine domestic law, criminal acts committed by terrorists would necessarily fall under the provisions on various forms of illegal associations set out in articles 210, 210 bis and 213 bis of the Penal Code, merely on the grounds of the perpetrators' membership in such associations.

In the second place, once it has been established that the funds suspected of being linked to terrorism are linked by virtue of a crime, their ownership must be determined in order for them to be frozen. If the funds belong to a terrorist organization, an association which would be illegal in and of itself, freeze measures could be applied. If the funds belong to third persons, the links to terrorism would have to be analysed on the basis of objective and subjective elements specified by criminal law in order to consider the extent of their participation in the execution of the illegal act. Thus, there would have to be proof that the third persons actually did supply funds to terrorists and had knowledge that they would be utilized to commit a crime — and even organizing or maintaining an illegal association would be considered a crime. On the basis of this assumption, it would also be possible to

freeze the said funds, provided they in themselves are the instrument and expression of assistance to and collaboration with the illegal association. The extent of participation, for its part, would be shown by how the subject's contribution figured in the execution of the act — thus, participation would have to have been essential or ancillary, that is, without it, the act could not have been committed (Penal Code, article 45) — or by any other form of cooperation (Penal Code, article 46), respectively.

Subparagraph 1 (d)

"(d) Prohibit their nationals or any persons and entities within their territories from making available any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;"

Please provide an outline of the preventive steps initiated by the Central Bank to protect the financial system from misuse for terrorist purposes.

As indicated in the "Report of the Argentine Republic on the implementation of resolution 1390 (2002) of the Security Council of the United Nations", the fragile economic and financial situation of the Republic in recent times has prompted the implementation of a number of control measures to restrict the movement of bank funds, which apply to all transactions and movements of funds and assets within the Argentine financial system and hence, those referred to in Security Council resolution 1373 (2001).

By Act No. 25,561 on "Public emergency and reform of the foreign exchange system", a "public social, economic, administrative, financial and foreign exchange emergency" was declared (article 1). Accordingly, and in accordance with the generally applicable norms adopted in response to the country's serious economic emergency, the Argentine Republic bans international money transfers out of its financial system. Article 2 (b) of Decree No. 1570 of 1 December 2001 prohibits international transfers, with the exception of those related to foreign trade operations, the payment of costs, withdrawals abroad against credit or debit cards issued in Argentina, or the settlement of financial operations or other operations authorized by the Central Bank of the Argentine Republic.

The Decree also bans the "export of foreign currency and coins and minted precious metals, except through entities authorized by the Superintendency of Financial and Foreign Exchange Entities, with the prior authorization of the Central Bank of the Argentine Republic, or where the amount is less than ten thousand United States dollars (US$ 10,000) or the equivalent thereof in another currency, at the seller's exchange rate of Banco de la Nación Argentina".

The Central Bank of the Argentine Republic has established specific regulations on the scope of exemptions in its circulars to entities in the Argentine financial system. Exemptions shall not be granted in any of the cases referred to in resolution 1373 (2001).

While the restrictions on transactions involving funds and assets in the Argentine financial system are general in scope and, accordingly, not directed *ratione personae* solely at the persons and entities specified in resolution 1390 (2002), the system of bans, authorizations and restrictions they comprise meets the requirements of resolution 1373 (2001). The Argentine Republic has thus indirectly complied with the general substance of Security Council decisions in this area.

What preventive control and surveillance measures has Argentina put in place to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted from their stated purposes, in particular to the financing of terrorism?

Within the bounds of the Autonomous City of Buenos Aires, the General Inspectorate of Justice permanently oversees the functioning of those entities established to carry out the kinds of activities on which clarification is being sought. This function is set out in article 10 of Act No. 22,315 and in various regulatory provisions, particularly Decree No. 1493/82 (articles 30 to 33) and General Resolution No. IGPJ 6/80 (articles 91 to 144).

The above-mentioned monitoring is done at a local level and is limited in scope to the jurisdiction of the domicile established by the entity, either when it was first established and requested authorization to operate as a legal entity, or on changing its location. Oversight is applicable only within the confines of the city of Buenos Aires, and our reply to this question should be understood in that context (article 2, Act No. 22,315).

In exercising its oversight function, the General Inspectorate of Justice ensures that entities duly comply with their stated purposes, and that the purposes set forth in their statutes are indeed adhered to and that they do not distort or deviate from those stated purposes (article 30, Decree No. 1493/82). This involves overall control to ensure that such entities' resources are not diverted for any but their stated purpose. If serious acts entailing a violation of the law, the entity's statutes or by-laws, or in which the public interest must be protected, are uncovered, or if irreparable irregularities are found or the entities are unable to comply with their stated purpose, the General Inspectorate of Justice shall be authorized to request the Ministry of Justice, Security and Human Rights to rescind its authorization and to dissolve and liquidate the entities in question (article 10 (j), Act No. 22,315).

Furthermore, in accordance with the provisions of article 21 of Act No. 25,246 on Concealment and Laundering of Assets of Criminal Origin, all persons specified in article 20, including legal entities which receive donations or contributions from third parties (paragraph 18), must comply with the following requirements:

(a) Obtain from their contributors documents which constitute credible proof of their identity, legal capacity, domicile and any other information required in each particular case to carry out any type of activity related to the entity's stated purposes. This requirement may be waived, however, if the amounts involved are less than the minimum specified in the respective circular. When contributors are acting as agents for third persons, the necessary precautions should be taken to establish the identity of the person in whose behalf they are acting ...;

(b) Report any suspicious act or operation, apart from the amount involved. For the purposes of this law, suspicious operations shall be deemed to be those

transactions which, based on the customs and practice of the activity in question, and the experience and capacities of the reporting parties, are unusual or unjustified from an economic or legal standpoint, or are uncommonly or unnecessarily complex, whether they are one-time or recurring transactions.

Subparagraph 2 (b)

"(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;"

Please describe the mechanism available in Argentina to provide early warning of anticipated terrorist activity to States outside the MERCOSUR group of countries.

Act No. 25,520 on National Intelligence, adopted on 27 November 2001, forms the legal, organic and functional basis for the National Intelligence System created under it, and provides the structure for both the criminal intelligence agency and its activities, which, in accordance with Domestic Security Act No. 24,059 is currently the responsibility of the Ministry of Justice, Security and Human Rights, particularly its National Criminal Intelligence Directorate.

Where an early warning constitutes a national intelligence activity and is obtained through the exchange of information, the provisions of Act No. 25,520 are applied. Article 7 of that Act provides that "the Intelligence Secretariat under the President of the Nation shall be the supreme agency of the National Intelligence System and its overall objective shall be to direct that System".

In particular, article 13 of that same law assigns, inter alia, the following functions to the Intelligence Secretariat: "direct and coordinate the activities and operation of the National Intelligence System, as well as relations with intelligence agencies of other States."

In that same vein, article 4 of the regulations under this Act, adopted by Decree No. 950 of 5 June 2002, annex I, establishes that "the Intelligence Secretariat under the Office of the President of the Nation shall adopt such norms as may be necessary for the operation of the National Intelligence System, in accordance with the duties assigned to it under article 7 of the Act."

The National Criminal Intelligence Directorate of the Domestic Security Secretariat, within its sphere of competence and through its specific ties to the federal and provincial police forces and its participation in the Specialized Working Group on Terrorism at the subregional level, contributes to the National Intelligence System as provided by existing norms.

Furthermore, bilateral agreements on cooperation in fighting terrorism provide for the exchange of information, and for communicating early warnings. In particular, the Argentine Republic is a party to various bilateral conventions on fighting terrorism, enumerated in document S/2001/1340, pages 26 and 27 and, in addition, to treaties with Israel (1996) and Tunisia (1996).

In turn, it should be noted that the Ministry of the Interior — which, until January 2002, was responsible for domestic security affairs which have now been turned over to the Ministry of Justice, Security and Human Rights by Decree No. 1210 of 10 July 2002 — concluded inter-institutional agreements with its

counterparts in other countries, including with the authorities of France (1994), Spain (1997) and the Russian Federation (1998).

At the Inter-American level, mention should be made of the Argentine Republic's participation in the Inter-American Committee against Terrorism (CICTE), established in June 1999 by resolution No. 1650/99 of the General Assembly of the Organization of American States (OAS). Argentina serves as Vice-President of CICTE, whose functions in the areas of cooperation and exchange of information have been laid down in articles 17 and 18 of the Inter-American Convention against Terrorism.

CICTE is comprised of competent national authorities of OAS member States and its main purpose is to develop cooperation in order to prevent, combat and eliminate terrorist acts and activities. Its functions are, inter alia, to establish a technical cooperation framework, taking into account the lines of action proposed in the annexes to the Commitment of Mar del Plata; develop, coordinate and evaluate the recommendations of government experts; encourage member States to ensure that their domestic legislation attempts to address and prevent the threat of terrorism; and coordinate and assist member States in the exchange of information on activities of persons, groups, organizations and movements linked to terrorist acts and their possible sources of financing. This includes informing member States of any possible early warnings.

Sub-paragraph 3 (d):

3. *Calls* upon all States to:

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

The CTC would welcome a report, in relation to the international conventions and protocols relating to terrorism, of progress made by Argentina in:

- enacting legislation and making other necessary arrangements to implement those conventions and protocols to which it is a party;

  See reply to sub-paragraph 1 (d) above.

- becoming a party to the instruments to which it is not yet a party.

As we reported at the appropriate time, Argentina is a party to nine of the twelve international counter-terrorism agreements currently in force. The National Congress is considering the three remaining instruments with a view to possible adoption. The International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997) was submitted to Congress on 29 November 2001, and has so far been approved by the Senate but not by the lower house. The International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999), submitted to Congress on 30 April 2002, has also been approved by the Senate. The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988) was submitted to Congress on 8 May 2002.

Argentina advocated the adoption of the Inter-American Convention against Terrorism and played an active part in its negotiation. It was signed by the Argentine Government when it was opened for signature in Bridgetown, Barbados, on 3 June 2002, on the occasion of the session of the General Assembly of the Organization of American States. Procedures have begun for its submission to Congress.

Subparagraph 3 (e):

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

Have the offences mentioned in the relevant international conventions and protocols on terrorism been included as extraditable offences in the bilateral treaties to which Argentina is party?

To comply with an extradition request, Argentina does not require an extradition treaty to be in force. Pursuant to Act No. 24,767 on international penal cooperation, compliance with an extradition request from a foreign State is obligatory, subject to the conditions set out in the Act and the requirement of reciprocity.

Anti-terrorism treaties comprise a rule whereby the offences that they enumerate are to be considered as belonging to the category of extraditable offences in any extradition treaty in force between States which were parties before the entry into force of the Convention and those countries which, like Argentina, do not make extradition conditional upon the existence of a treaty, subject to the conditions provided for in their legislation. Such rules are applicable directly, requiring no legislative amendments or modification of existing bilateral treaties.

As for the requirement of double criminality, Supreme Court jurisprudence is that the verification of double criminality does not require the offence to have the same legal designation; in other words, the classification of the offence in criminal law need not be identical. The different designations of the illegal act in the laws of the requesting State and of Argentina therefore entail no obstacle to extradition provided that, in substance, both laws penalize the same criminal offence. As indicated above, the great majority of the actions described in the conventions on terrorism are covered under the definitions of various offences in Argentine's domestic legal system, the double-criminality requirement would therefore be satisfied with any country submitting an extradition request to Argentina on the basis of those offences.

Other matters:

Could Argentina please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

Pursuant to the decision by Argentina, in accordance with the Charter of the United Nations, to combat by all available means the threats to international peace and security resulting from acts of terrorism, and as a part of the actions undertaken, the Office of the Special Representative for Matters Concerning Terrorism and

Related Offences (RETOD) was created under the Ministry of Foreign Affairs, International Trade and Worship.

RETOD was created by Ministerial Decision No. 187 of 7 February 2002, a copy of which is attached to this presentation. The Office comes under the authority of the Foreign Policy Department of the Ministry of Foreign Affairs. The Department is responsible for coordinating policies, activities and measures relating to compliance with Security Council resolution 1373 (2001) and other related United Nations resolutions and for policies, activities and measures resulting from actions by Argentina within the regional framework of the inter-American system, in the regional framework of MERCOSUR and in that of the Ibero-American Conference, the Rio Group and at the bilateral level both in the area of competency of the Ministry and in relations with other bodies and departments of the Argentine Government.

The final preambular paragraph of Ministerial Decision No. 187 reads as follows: "Considering that, in accordance with the terms of United Nations Security Council resolution 1373 (2001), the Government of Argentina notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and a threat to international security".

Also attached to this document is an organizational chart of the Ministry of the Interior relating to migration control and another chart prepared by the Ministry of Justice and Human Rights concerning police and security activities.

The structure of the Argentine Federal Police includes a Directorate for International Terrorism and Complex Offences, created in 2001, under the direct authority of Headquarters Command. The Directorate is responsible for investigating criminal activities which are thought to have been committed either by terrorist organizations or by "gangs" in such a way as to reveal the structure similar to that of an enterprise, with complex planning, and those designated by the Ministry of Justice. The following are directly under the authority of the Directorate:

- The Interpol Department,
- The Department of the Anti-Terrorist Investigation Unit (DUIA),
- The Department for Complex Offences,
- Special Federal Operations Group Division (GEOF),
- The Division for the Investigation of Discriminatory Behaviour,
- The Complex Offences Operations Division,
- Complex Offences Intelligence Division,
- The Three Borders Section.

The structure and functioning of these departments is designed to enable them at the operational level to meet the necessary requirements for combating an activity as specific and complex as terrorism. Each of the departments is assigned its own

particular duties so that, overall, they are able to respond to complex situations such as those resulting from terrorist acts.

The Anti-Terrorist Investigation Unit (DUIA) works on the prevention, detection and investigation of any terrorist act considered to be connected with international terrorism, in addition to the internal collaborative activities resulting from such acts. It is also responsible for maintaining links with special forces and anti-terrorist police services in other countries in order to share information on particular cases under investigation or on the prevention of possible incidents.

The Interpol Department, in addition to performing the duties inherent to the mandate given by the International Criminal Police Organization (Interpol) to National Central Offices, is involved in administering the emerging international cooperation within the MERCOSUR system and under other international agreements establishing such obligations for the Argentine Federal Police in the area of cooperation for the prevention and suppression of crime. It is also responsible for centralizing and coordinating all information received from Interpol bodies, making possible the processing and distribution of such information, which is essential for the prevention and suppression of transnational criminal activities such as terrorism.

The Department for Complex Offences, through its Operations and Intelligence Divisions, works on the investigation, analysis, solving and suppression of offences falling within the competence of the Federal Justice System, resulting from the activities of criminal organizations at the national or international level.

The Special Federal Operations Group Division (GEOF) is made up of specially trained agents who regularly receive physical, tactical and operational training. This is the elite response team of the Argentine Federal Police in crisis situations, especially those resulting from terrorist acts.

The Division for the Investigation of Discriminatory Behaviour is responsible for dealing with incidents and activities described and penalized under anti-discrimination legislation and international agreements. At the prevention stage, it can detect persons or groups whose fanatical or fundamentalist ideologies or tendencies are such that they may be used or taken over by terrorist groups for illegal purposes.

Lastly, the Three Borders Section is the essential tool for obtaining, preparing, processing, analysis and assessment of information from the Three Borders region between Argentina, Paraguay and Brazil.

In carrying out its mission, the International Terrorism and Complex Offences Directorate, with its subordinate departments, is authorized to make use, for a predetermined period and subject to notification of headquarters, of the staff, equipment and financial resources of the police, and to use it for the execution of planned operations.

The territorial scope of the federal police covers the whole country, with its centre of gravity in the federal capital.

As for the Gendarmería Nacional, its geographical and legal scope in the area of terrorism is defined by Gendarmería Nacional Act No. 19,349 and its Regulatory Decree No. 83/74. Chapter I (Definition) and Chapter II (Responsibilities) of the Act defines the "Frontier Security Zone and other areas designated for the purpose" as the territorial scope of the activities of this force.

The Gendarmería Nacional, as the force with primary responsibility for mountain passes and frontier zones, has concluded a number of cooperation agreements with similar forces in neighbouring countries on issues including that of collaboration in combating terrorism. Such agreements have been signed with Carabineros of Chile and the National Police of Bolivia and of Paraguay. The structure of the Gendarmería Nacional includes:

- A Special Forces Section with the capacity to counteract terrorist activities such as hostage-taking and the seizure of buildings or of aircraft on the ground. This Section is equipped with weapons and technical material corresponding to its requirements.
- A Special Bomb Disposal Group, with the ability to take preventive measures in the detection of explosive devices and to disarm such devices; it is also equipped with the latest equipment.
- A Scientific Police Department, with the capacity to support investigations by providing expert opinions in areas such as ballistics, explosives, handwriting and various materials, using the latest technical equipment.
- A Special Unit for Judicial Investigations and Procedures, supporting the federal justice system in any investigation or procedure being carried out in response to terrorist acts; it has the necessary staff and resources for that task.

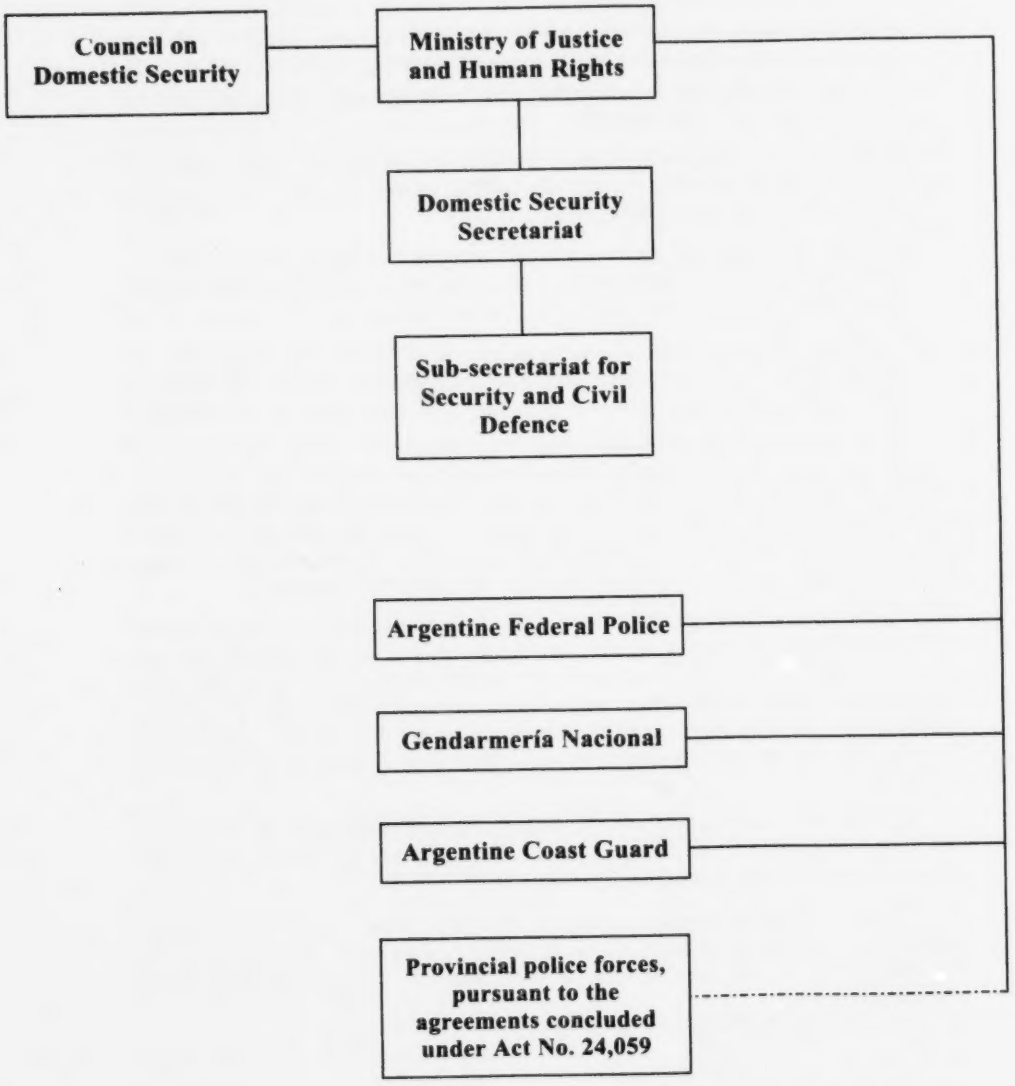
While the units described above can take some part in the prevention of terrorist acts, their work is usually carried out once the incident has taken place. Essentially, prevention efforts are based on constant collection of information and intelligence-gathering at the tactical and strategic levels, in order to give early warnings so that the necessary measures can be taken. The responsibility for this task lies with the Intelligence Directorate of the Gendarmería Nacional.

The Argentine Coast guard, a force which structurally and functionally comes under the Ministry of Justice and Human Rights, is part of the internal security system (article 7 (f) of Act No. 24,059) and carries out its tasks in the following specific areas: seas, rivers, lakes and other navigable waterways in Argentina; coastlines and beaches; ports under national jurisdiction, ships flying the Argentine flag, maritime border security zones, and any other place as required by the federal justice system.

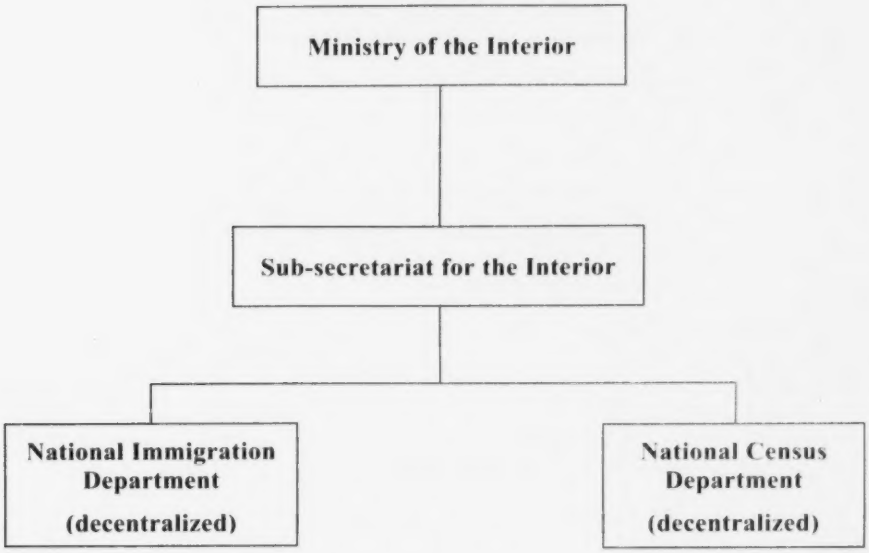
In relation to units having specific tasks in the prevention and suppression of terrorism, this force has intelligence sections throughout its jurisdiction, under the functional control of the Intelligence Service.

These intelligence sections play an important part in counter-terrorism, maintaining constant monitoring of all persons or groups which may engage in activities which in one way or another may harm the internal security of the Argentine Republic.

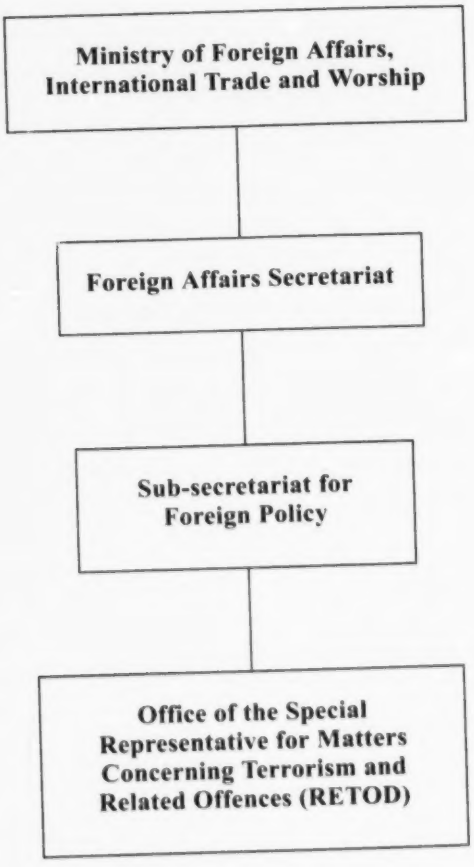
Partial organizational chart of the Ministry of Justice and Human Rights


Council on Domestic Security
Ministry of Justice and Human Rights
Domestic Security Secretariat
Sub-secretariat for Security and Civil Defence
Argentine Federal Police
Gendarmería Nacional
Argentine Coast Guard
Provincial police forces, pursuant to the agreements concluded under Act No. 24,059

Partial organizational chart of the Ministry of the Interior



Partial organizational chart of the Ministry of Foreign Affairs, International Trade and Worship


Ministry of Foreign Affairs, International Trade and Worship
Foreign Affairs Secretariat
Sub-secretariat for Foreign Policy
Office of the Special Representative for Matters Concerning Terrorism and Related Offences (RETOD)